

00354

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

Wm. Haubert
Civ. Pers.

FILE: B-187508

DATE: March 22, 1977

MATTER OF: Gary E. Aho Temporary storage

DIGEST: Transferred employee was authorized temporary storage at commuted rate. Although actual expense method may be used in intrastate transfers where unusual hardship to employee may result, since no administrative determination was made to authorize actual expense method, there is no authority to pay storage expenses in excess of those allowable under commuted rate system authorized.

By a letter dated September 21, 1976, Ms. Orris C. Huet, an authorized certifying officer of the Department of Agriculture, requested our decision concerning a voucher submitted by Mr. Gary E. Aho, an employee of the Soil Conservation Service, reclaiming \$176.50 for excess charges for temporary storage of household goods incident to a permanent change of station.

The record indicates that by a travel order dated March 4, 1975, Mr. Aho was transferred from Kalamazoo, Michigan, to Escanaba, Michigan. The travel order authorized Mr. Aho to transport his household goods and personal effects at the commuted rate. In connection with the transfer, Mr. Aho placed 10,000 pounds of household goods in storage at Escanaba from April 11, 1975, to May 8, 1975, and incurred expenses in the amount of \$658.50, the charge for storage of 30 days. The claimant was administratively allowed reimbursement of \$482, representing the maximum permissible amount under the commuted rate system for storage of 30 days or less at Escanaba, Michigan. Mr. Aho has submitted a reclaim voucher for \$176.50, representing the unreimbursed portion of his storage expenses. He contends that he should be paid in full since he was not advised that under the commuted rate system he could not be reimbursed beyond the amount determined under that system.

Use of the commuted rate system for temporary storage of household effects is authorized at 5 U.S.C. 5724(c) (1970) which generally provides that a transferred employee shall be reimbursed on a commuted rate basis at properly fixed rates under regulations, instead of being paid for the actual expenses of temporarily storing his household goods and personal effects.

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Provisions implementing this authority are found in the Federal Travel Regulations (FTR) (FPMR 101-7, May 1973). In determining whether the commuted rate method or the actual expense method is to be used in a given case, FTR para. 2-8.3c(3) provides that as a general policy, commuted rates shall be used when individual transfers are involved. In the case of intrastate transfers, however, FTR para. 2-8.3c(4)(d), provides that the actual expense method may be authorized when it is administratively determined that an unusual hardship would result to the employee through use of the commuted rate system. These regulatory provisions place on the administrative office the responsibility for deciding, based upon the guidelines enumerated therein, which system should be utilized in a given case. Once that determination is administratively made, payment is authorized only in accordance with the system selected. B-168466, January 21, 1970. This is especially true where the commuted rate is authorized since under the actual expense method, household goods are shipped not by the employee, but by the Government.

In the present case, Mr. Aho was authorized shipment of his household goods under the commuted rate system. FTR para. 2-8.5b(1) provides that under that system, the costs of temporary storage within the applicable weight limits will be reimbursed in the amount of the employee's costs for storage, in and out charges, and drayage, but not to exceed the commuted rates set forth in GSA Bulletin FPMR A-2 for storage. Since the Bulletin in effect at the time when Mr. Aho incurred storage expenses authorized reimbursement of \$4.82 per 100 pounds of household goods stored in the area of Escanaba, Michigan, Mr. Aho's reimbursement was properly computed. The decisions of this Office have consistently held that, when the commuted rate is properly utilized, there is no basis for allowing reimbursement of any additional transportation or storage expenses in excess of the amount to which the employee is entitled under the commuted rates. B-168057, May 14, 1976; B-171078, January 13, 1971. Concerning Mr. Aho's contention that he was not informed of the maximum allowable rate under the commuted rate system, it is well established that in the absence of specific statutory authority, the United States is not liable for the negligent or erroneous acts of its officers, agents or employees, even though committed in the performance of their official duties. Robertson v. Sichel, 127 U.S. 507,


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515 (1888); German Bank v. United States, 148 U.S. 573, 579 (1893); 19 Comp. Gen. 503 (1939); 22 id. 221 (1942); 44 id. 337 (1964); 46 id. 348 (1966).

However, we feel obliged to note that the Department of Agriculture apparently did not consider its authority to use the actual expense method and did not compare the cost to the employee under the two methods. It is possible that the employee's understandable complaint could have been avoided by such consideration being given to the matter in advance of the move.

Nevertheless, while it is unfortunate that the storage expenses incurred by Mr. Aho were in excess of those reimbursable under the commuted rate system, neither the law nor the regulations authorize further reimbursement of excess charges.

Accordingly, the reclaim voucher may not be certified for payment.

Deputy 
Comptroller General
of the United States



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March 22, 1977

The Honorable Robert T. Griffin
Acting Administrator
General Services Administration
Washington, D.C. 20405

Dear Mr. Griffin:

We have considered a claim for reimbursement of the transportation and storage expenses incurred by a Government employee for the shipment of his household goods incident to his intrastate transfer. We hold by decision B-187508 of this date, copy enclosed, that--where no administrative determination was made under paragraph 2-8.3c(4)(d) of the Federal Travel Regulations (FTR) (FPMR 101-7, May 1973) prior to the transfer to authorize reimbursement of actual expenses--a retroactive amendment to the employee's travel orders may not be made for the purpose of paying storage expenses in excess of those authorized under the commuted rate system.

Our decision states, however, that had the requisite determination been made by the employing agency prior to the transfer, the actual expense method could have been authorized under FTR para. 2-8.3c(4)(d) to prevent an unusual hardship to the employee. We note that the cited paragraph was included in the FTR for the express purpose of preventing such hardships in view of the fact that intrastate rates may be substantially higher than the interstate rates which form the basis for the commuted rates prescribed. In view of the remedial nature and purpose of this provision, it is our concern that the stated principles achieve optimum application. We are, therefore, offering the following suggestions for your consideration.

Because it appears that the agencies may not be fully aware of the scope and effect of this paragraph, we suggest that the provision be highlighted by adding a sentence to FTR paragraph 2-8.3c(1) stating that with respect to transfers wholly within a state, paragraph 2-8.3c(4)(d) should be consulted to ascertain whether the commuted rate or actual expense method should be used. Regarding the latter paragraph, we suggest that the heading be changed to "intrastate transfers and unusual circumstances" and that the language be changed to encourage, rather than discourage, the use of the actual expense method. In addition, we suggest the adoption of language providing that employees who are transferred intrastate and who have obtained estimates of transportation and storage costs which, relative

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to commuted rate reimbursement, may result in an undue hardship to them, should submit such estimates to the employing agency prior to the move for its consideration in determining whether to use the actual expense method.

Mr. Robert L. Higgins, Assistant General Counsel, will be happy to be of assistance to you in this matter.

Sincerely yours,


Deputy Comptroller General
of the United States